

## **MINUTES**

### **MONTANA SENATE 58th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON EDUCATION AND CULTURAL RESOURCES**

**Call to Order:** By **CHAIRMAN BILL GLASER**, on January 17, 2003 at 3:00 P.M., in Room 317-C Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Bill Glaser, Chairman (R)  
Sen. Bob Story Jr., Vice Chairman (R)  
Sen. Jerry W. Black (R)  
Sen. Edward Butcher (R)  
Sen. Mike Cooney (D)  
Sen. Jim Elliott (D)  
Sen. Royal Johnson (R)  
Sen. Jeff Mangan (D)  
Sen. Don Ryan (D)  
Sen. Tom Zook (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Tari Elam, Committee Secretary  
Connie Erickson, Legislative Branch

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing & Date Posted: SB 76, 1/10/2003; SB 63, 1/10/2003;  
SB 96, 1/10/2003; SB 6, 1/10/2003  
Executive Action: SB 76

HEARING ON SB 76

Sponsor: SENATOR TRUDI SCHMIDT

Proponents: NONE

Opponents: NONE

Informational Witnesses: Robert Runkel, Administrator,  
Division of Special Education, OPI

Opening Statement by Sponsor:

*{Tape: 1; Side: A; Approx. Time Counter: 0.3 - 5}*

SENATOR TRUDI SCHMIDT, SD 21, Great Falls, stated the proposed legislation is intended to eliminate certain special education definitions to comply with anticipated federal changes arising from Congress' reauthorization of the Individuals with Disabilities Education Act (IDEA). SEN. SCHMIDT stated some definitions contained in the Montana Codes Annotated are either outdated, incorrect, or without relevance elsewhere in the statutes. This bill allows for correction of those sections prior to implementation of the anticipated new guidelines.

Informational Testimony:

*{Tape: 1; Side: A; Approx. Time Counter: 5.2 - 11.0}*

Robert Runkel, Administrator, Division of Special Education, OPI, submitted written testimony **EXHIBIT**(eds10a01).

Questions from Committee Members and Responses:

*{Tape: 1; Side: A; Approx. Time Counter: 11.7 - 31.0}*

SENATOR DON RYAN indicated he has a child who falls under the guidelines of this legislation. He asked Mr. Runkel if under the proposed change his own child would need to have an assessment done before her sixth birthday. Mr. Runkel answered in the affirmative stating a school must have completed an assessment that designates under which category a child falls by the day of their sixth birthday.

SENATOR JIM ELLIOTT sought clarification on the definition of "developmental delay" from Mr. Runkel. Mr. Runkel explained the requirements are such that a child who is one and a half standard

deviations below the mean in two or more areas--such as physical development, language, and so forth--be identified. Accepted practice indicates a child who is served through early intervention measures will often times need services for a relatively shorter time than for those children who are not identified until, for example, seventh or eighth grade . For children with significant disabilities early intervention provides opportunities for greater success in the educational environment. **SEN. ELLIOTT** inquired whether dyslexia falls under this category. **Mr. Runkel** replied in the affirmative. He noted autism and sensory impairment are also good examples. **SEN. ELLIOTT** then inquired whether a blind child would be considered developmentally delayed. **Mr. Runkel** explained a child who is blind would most often be identified as having a disability before the age of three. Application of the "developmentally disabled" terminology would be a decision reached by the board at a later time.

**SENATOR TOM ZOOK** indicated his support for the bill as appropriate and necessary, but he is concerned by the ever increasing numbers of children being identified as learning disabled. He inquired whether a school district receives additional funding for each child so identified. **Mr. Runkel** responded in the negative. He explained state and federal laws have been changed so as to prevent abuse of that nature. **SEN. ZOOK** asked **Mr. Runkel** whether a school receives only ANB for children so identified. **Mr. Runkel** explained schools do not receive special funding for children between the ages of three and four. They do, however, receive additional dollars for children once they are in the regular K-12 setting. **SEN. ZOOK**, again, expressed concern that this type of legislation may provide the wrong incentive to schools. **Mr. Runkel** assured **SEN. ZOOK** the formula for providing special education aid is based on the needs of a particular child and not his being identified as a special education child.

**SENATOR BOB STORY** inquired why the statutory language was not corrected in the beginning. **Mr. Runkel** indicated although he has been a part of the process for a long time he does not remember why the distinctions were made. **SENATOR STORY** then inquired about the single remaining definition. **Mr. Runkel** replied the definition is used elsewhere in the statutes.

**SENATOR ROYAL JOHNSON** indicated his understanding of the bill is that it intends to address changes which have not yet been made; i.e., in anticipation of some federal action. He inquired why, then, the proposal has an effective date of July 1 rather than subsequent to the anticipated changes. **Mr. Runkel** indicated

although changes have not been made to the federal law as of yet, the changes being proposed to the Montana Code are necessary to comply with the law. **SEN. JOHNSON** asked **Mr. Runkel** if the proposed changes will result in greater expenditures being realized? **Mr. Runkel** stated current projections indicate the changes will actually result in a decrease in expenditures. He explained Congress is concerned by the numbers of children being identified as learning disabled; the proposed changes to definitions, therefore, should result in a decrease in numbers. **Mr. Runkel** stated in Montana, for example, fifty percent (50%) of Montana children in special education are categorized as learning disabled. Closer scrutiny of the education process--i.e., are the children learning disabled or is the instruction simply bad--is occurring at present. **SEN. JOHNSON** then inquired whether it would be improper to tie this legislation to its federal counterpart; and, whether this legislation would be before this body if federal standards were not a part of the present analysis. **Mr. Runkel** replied to the first half of the question by stating his office would have no problem should the Committee decide the effective date should be changed to correlate with federal changes. On the second half of the question, **Mr. Runkel** replied if federal reauthorization of IDEA was not upcoming within the next few months this legislation would not be before this Committee.

**SENATOR EDWARD BUTCHER** expressed concerns over what appears to be an expansion of the basic education system to be inclusive of providing services beginning at birth. **Mr. Runkel** explained the changes being proposed are not intended to expand the scope of services provided by the K-12 system. The only change is to the non-categorical language with regard to a child with a disability. The same children will be served with or without the bill. The removal of the language from the state statutes will allow the Office of Special Education to rely solely on federal law, thus ensuring compliance with IDEA. **SEN. BUTCHER** noted he understood the intention of the proposal but asked whether expansion might be a likely result nonetheless. **Mr. Runkel**, replied in the negative, noting even if there were an attempt to go beyond the scope of IDEA federal law would prevent such measures.

**SENATOR JEFF MANGAN** inquired whether he is correct in understanding under current law coverage also exists for children ages birth to five. **Mr. Runkel** replied in the affirmative. He explained there are separate requirements the state is obligated to meet for children ages three to five within the regular education system. For children between the ages of birth and three years who qualify for early identification programs, the Department of Public Health and Human Services is responsible for

meeting the required obligations. The proposed changes have no effect on those distinctions.

**Closing by Sponsor:**

***{Tape: 1; Side: B; Approx. Time Counter: 2 - 2.8}***

**SEN. SCHMIDT** stated **SB 76** will provide OPI with the flexibility it needs for meeting revisions to IDEA and will reduce confusion arising from having multiple definitions each time the Department of Education attempts to comply with federal and Montana law.

**SEN. SCHMIDT** urged the Committee recommend to pass on this legislation and expressed her appreciation for their participation.

**HEARING ON SB 63**

**Sponsor:** **SENATOR COREY STAPLETON**

**Proponents:** **Lance Melton, Montana School Boards Association (MTSBA)**

**Opponents:** **NONE**

**Informational Witnesses:** **Deborah Long, Business Manager, School District #2, Billings**

**Opening Statement by Sponsor:**

***{Tape: 1; Side: B; Approx. Time Counter: 3 - 7.0}***

**SENATOR COREY STAPLETON, SD 10, Billings,** brought forward a bill allowing the transfer of funds from the State general fund to the Office of Public Instruction for the purpose of reimbursing school districts who through no-fault error have reapportioned money to the state. **SEN. STAPLETON** explained this bill is in response to an honest clerical error made by a school district employee in a report to OPI. A zero was placed in a spreadsheet cell rather than the correct amount of \$2,475,775.14. The affect of this error resulted in the district's losing its entire general fund balance; money that should have been transferred to its' operating reserves. **SEN. STAPLETON** noted the bill has a cost to the general fund of \$752,513.00. This is the amount necessary to return the district to its prior position. He believes it is the correct response to an honest clerical error.

**Proponents' Testimony:**

***{Tape: 1; Side: B; Approx. Time Counter: 7.1 - 7.8}***

**Lance Melton, MTSBA**, expressed his organization's support of **SB 63** because it arose from an honest clerical error. **Mr. Melton** said this is analogous to the difficulties faced by the legislature during the last summer special session. **Mr. Melton** explained the state received a windfall from this error, a windfall which left the district with no operating reserves. He believes returning the district to its prior position does not harm the state to any greater degree than that to which they received from the windfall.

**Questions from Committee Members and Responses:**

***{Tape: 1; Side: B; Approx. Time Counter: 8.1 - 17.4}***

**SEN. ELLIOTT** expressed his concern regarding the constitutional prohibition on local and specific legislation. Referring to Article 5, Section 12 of the Montana State Constitution, **SEN. ELLIOTT** stated "the legislature shall not pass a special or local act when general act is, or can be made, applicable." He asked **SEN. STAPLETON** if he sees a conflict with the present bill. **SEN. STAPLETON** responded in the negative, noting school funding is a state-wide issue. He sees this as a continuation of a particular fiscal transaction which occurred two years ago.

**SEN. RYAN** expressed his admiration of **SEN. STAPLETON** for bringing forward this bill under present economic conditions. He inquired whether some measure of personal accountability for the mistake had occurred. **SEN. STAPLETON** explained while he has little personal knowledge, he does believe reassignments of some personnel did occur. **SEN. RYAN** conveyed his support for the bill noting this type of error could occur in any district in Montana.

**SEN. JOHNSON** expressed concern over the effective date of the bill, referring specifically to the State's present cash shortage. He inquired whether **SEN. STAPLETON** might consider having the bill become effective in the regular manner: making the bill effective during the October month. **SEN. STAPLETON** indicated he sees no problem with taking the bill through the regular process.

**SEN. STORY** stated it is his understanding money reappropriated to the general fund will result in a property tax reduction for local residents. He asked **Ms. Long** if that were correct in this case and if, as consequence, the district was left short on

reserves. **Ms. Long** replied in the affirmative. **SEN. STORY** inquired how much the district usually carries in reserves. **Ms. Long** replied the district generally carries slightly less than ten percent (10%). **SEN. STORY** asked by how much was the reserve account effected by the \$2,000,000 mistake. **Ms. Long** answered the account was reduced to \$0.00. **SEN. STORY** inquired whether the district has been able to rebuild the reserve account. **Ms. Long** replied in the affirmative.

**SEN. ZOOK** inquired how the district's reserve account would be effected in the event the district received the money in July. **Ms. Long** replied the reserve account at the beginning of the year was four percent (4%), with this money it would be returned to seven or eight percent (7 - 8%).

**SEN. MANGAN** asked **Ms. Long** if she would mind telling the Committee about the district's cash flows. **Ms. Long** explained her district has been operating on a negative cash flow in the absence of any reserves.

**SEN. JOHNSON** inquired whether the general reserve fund was placed in a negative position. **Ms. Long** replied in the affirmative, noting in October of this year, as well as October of last year, the general reserve fund balance was in the negative. **SEN. JOHNSON** inquired whether any funds were borrowed from other reserve funds in the district. **Ms. Long** explained the district is not allowed to borrow funds from elsewhere, the entirety of their cash is held by the county.

**SEN. ZOOK** inquired whether the district invests reserve funds. **Ms. Long** replied in the affirmative, indicating the County Treasurer invests the money based on an agreement with the schools.

**Closing by Sponsor:**

***{Tape: 1; Side: B; Approx. Time Counter: 17.5 - 17.8}***

**SEN. STAPLETON** expressed his appreciation to the Committee for the input. He also conveyed his appreciation for the difficult decisions which must be made in the current economic climate.

HEARING ON SB 96

Sponsor: SENATOR SAM KITZENBERG

Proponents: Lance Melton, Montana School Boards  
Association (MTSBA)  
Dave Puyear, Montana Rural Education  
Association (MREA)  
Eric Feaver, MEA-MFT

Opponents: NONE

Informational Witnesses: NONE

Opening Statement by Sponsor:

*{Tape: 1; Side: B; Approx. Time Counter: 18.5 - 25.6}*

SENATOR SAM KITZENBERG, SD 48, Valley, Phillips, and Daniels Counties, explained the bill is an optional proposal which allows school districts to adopt a four day school week. At present, Montana children are required to attend school 180 days, a total of 1,080 hours. This bill allows for the same number of hours to be accomplished in less than 180 days. The bill provides more local control, i.e., the ability to cut costs without cutting jobs, programs, or quality. SEN. KITZENBERG stated the largest savings can be realized in the area of transportation: he believes the savings will be twenty percent (20%). Further savings can be realized through energy costs. SEN. KITZENBERG indicated 100 school districts in Oregon, Colorado, Wyoming, New Mexico, South Dakota, Arkansas, and Louisiana are presently utilizing alternative scheduling. He also provided the Committee with a compilation of information upon which his testimony relied EXHIBIT (eds10a02). SEN. KITZENBERG indicated he will be offering an amendment geared toward addressing concerns of the education community.

Proponents' Testimony:

*{Tape: 1; Side: B; Approx. Time Counter: 25.7 - 31}*

*{Tape: 2; Side: A; Approx. Time Counter: 0.2 - 2.8}*

Lance Melton, MTSBA, conveyed his organization's support of the bill as amended by SB009601.ace. Mr. Melton indicated the bill allows for an increase in local control. He sees the proposal as providing an avenue for costs savings, improvement in student achievement, professional development, etceteras. He urged the Committee's support of the bill.



**Dave Puyear, MREA**, stated his organization is in support of this bill. He believes this bill goes a long way toward helping districts meet the demands of the No Child Left Behind Act.

**Eric Feaver, MEA-MFT**, indicated his organization is in support of this bill. **Mr. Feaver** stated the proposed amendment is essential to the bill as it speaks to the collective bargaining process and addresses each of the concerns raised by various parties.

**Questions from Committee Members and Responses:**

***{Tape: 2; Side: A; Approx. Time Counter: 3 - 26.8}***

**SEN. MANGAN** expressed his support of the idea contained in the bill. He asked whether local districts could do a "pilot program" where one school within the district chooses a four day week and the remainder staying on the traditional calendar. **SEN. KITZENBERG** replied in the affirmative, noting the bill allows complete flexibility to the district.

**SEN. BUTCHER** stated the bill basically allows for the creation of a three day weekend. He inquired how this will affect various contracts; i.e., will this result in a four-day contract, or a five-day contract with Fridays being spent in extracurricular activities. **SEN. KITZENBERG** explained the change will result in a longer school day. Hourly workers will be paid accordingly, as will teachers contracted on a daily pay schedule. However, the end result will be the same number of hours. The costs savings do not arise from the instructional area, they arise from transportation, food services, and so forth. The savings will allow a district to comply with the Board of Public Education's accreditation standards for professional development without more days being added to the calendar year. **SEN. BUTCHER** inquired whether teachers are compensated for extra days, or is that possibility a part of their contractual obligation. **SEN. KITZENBERG** replied teachers are paid for a specified number of days of instruction. Under labor law a teacher cannot be compelled to participate in additional days.

**SENATOR JERRY BLACK** inquired about the impact of longer days of instruction on students; in particular, what studies have been done to show how well a student retains information given the longer day. **SEN. BLACK** stated he thinks this may be very difficult for younger students. **Mr. Melton** replied based on the information he has seen, **SEN. BLACK's** concerns are realistic. In school districts that have made this type of decision special accommodations have been made for younger students. **Mr. Melton** also stated the one and one-half hours added to each school day

can be seen as providing additional learning opportunities for at-risk children.

**SEN. BLACK** also expressed concerns with regard to students involved in extracurricular activities, asking whether this type of schedule might prevent or impair their ability to participate in these activities. **Mr. Melton** replied many of the districts who choose this alternative limit activities to Fridays. These districts have made policy decisions which stipulate four days are dedicated to learning, and the fifth allocated to whatever activities can be fit into that time. **SEN. BLACK** inquired whether additional pay is provided to teachers for participating in those activities. **Mr. Melton** responded in the affirmative, explaining a teacher receives an additional stipend for participating in any activities outside normal classroom requirements.

**CHAIRMAN BILL GLASER** inquired of both **Mr. Melton** and **Mr. Feaver** whether schools not presently under a collective bargaining agreement might be brought under the protections afforded by the proposed amendment. **Mr. Melton** responded by explaining his perception of the existent duality between those districts with collective bargaining agreements and those without. This is an on-going problem in Montana. He believes districts without an agreement can simply make the change and employees would have to comply.

**SEN. BUTCHER** expressed concerns over the amendment's terminology which seems to be indicative of compelled collective bargaining by the legislature. By its terms, the bill seems to demand collective bargaining whether or not a district desires that result. **Mr. Melton** replied it is certainly not his intention to compel anyone. Although he sees many incentives for forming unions the amendment was introduced solely to protect those agreements already in place and not to force unionization on all districts.

**SEN. STORY** inquired whether **Mr. Feaver** would like to answer the questions posed by **CHAIRMAN GLASER**. **Mr. Feaver** responded he was comfortable with **Mr. Melton's** response.

**SEN. STORY** conveyed his own experience with collective bargaining, i.e., salaries based on number of days, PIR days, and so forth, asking whether additional days would be subject to negotiation. **Mr. Feaver** replied any changes to the contractual arrangement are subject to collective bargaining. **SEN. STORY** then inquired whether the amendment might be modified to demonstrate the true intent of those who put it forward. **Mr. Feaver** replied in the affirmative, noting it was the intent of

the various parties to protect agreements already in place not dictate change to others.

**SEN. STORY** referred to a letter contained in **SEN. KITZENBERG's** hand-out [see, EXHIBIT 2] which states a school in Colorado is at present on a Tuesday - Friday calendar. He also referred to questions posed by **SEN. BLACK** and to information provided by **Mr. Melton**. He inquired, given transportation is not available, whether a requirement that all extracurricular activities be on the open fifth day is truly a viable option. **SEN. KITZENBERG** indicated his district would probably opt for Monday - Thursday schedule. He also stated there are a number of students involved in extracurricular activities and he does not see a potential conflict. **SEN. STORY** asked **SEN. KITZENBERG** about the practical realities of having students with ball games scheduled Wednesday, Thursday, Friday, and Saturday, in addition to the increased number of hours being spent in the classroom each day. **SEN. KITZENBERG** believes the change will have little if any impact on the students and their ability to participate in various activities outside the classroom whether those activities are social, extracurricular, or employment related.

**SEN. RYAN** asked if the potential change might make it easier to recruit teachers to northeastern Montana. **SEN. KITZENBERG** replied in the negative, noting he believes pay is the predominant factor with regard to that issue.

**Closing by Sponsor:**

***{Tape: 2; Side: A; Approx. Time Counter: 26.9 - 30}***

**SEN. KITZENBERG** directed the Committee's attention to a letter contained within his exhibit [see, EXHIBIT 2] which outlines how one school district managed the effects of longer days on younger children. This same letter also addresses concerns raised regarding the effects on student achievement; another letter notes the possible positive influence. **SEN. KITZENBERG** requested the Committee focus on the positive aspects of this bill as it relates to local choice. He expressed his appreciation to the various participants.

**HEARING ON SB 6**

**Sponsor:** **SENATOR DON RYAN**

**Proponents:** **Eric Feaver, MEA-MFT**  
**Jack Copps, Executive Director, Montana**

**Quality Education Coalition (MQEC)**

**Opponents:**                    **Lynda Brannon, Montana Association of School  
Business Officials (MASBO) & Indian Impact  
Schools Managemet (IISM)**

**Informational Witnesses:**            **Madalyn Quinlan, Office of Public  
Instruction**

**Opening Statement by Sponsor:**

***{Tape: 2; Side: B; Approx. Time Counter: 2.8 - 8.0}***

**SENATOR DON RYAN, SD 22, Great Falls,** brought forward a bill requiring a reduction in current year direct state aid for school districts operating at minimum base who spend less than their base budget in the previous year. **SEN. RYAN** indicated this bill is necessary to ensure that districts are spending dollars provided by the state for educating students toward that goal, and not for creating reserves or providing tax relief to local citizens.

**Proponents' Testimony:**

***{Tape: 2; Side: B; Approx. Time Counter: 8.1 - 12.3}***

**Eric Feaver, MEA-MFT,** indicated his organization is in support of this bill because the reason behind the original base-aid guarantee was to support education. By failing to spend those dollars on educating students districts are violating the purpose and objectives of the original mandate. **Mr. Feaver** believes each of the districts currently not spending their budget could benefit by doing so.

**Jack Copps, Executive Director, MQEC,** stated his organization is comprised of a group of eighty-five school districts who enroll a majority of the students in the state; the purpose of which is to ensure that constitutional guarantees are satisfied in the state of Montana. **Mr. Copps** stated there are two constitutional guarantees: equality of educational opportunity, and a basic system of free, quality education. **SB 76** goes to the heart of equality of educational opportunity. **Mr. Copps** referred to a decision rendered by the Supreme Court in which it determined the vast differences in spending between districts directly resulted in unequal educational opportunity. **HB 667,** passed in 1993, addressed the issue of spending directly. The bill required schools have a minimum funding level in order to achieve equality of opportunity. **Mr. Copps** does not believe direct state aid

should be used in the manner it is being used. To do so, in his opinion, is in violation of the mandate for equality of educational opportunity.

**Opponents' Testimony:**

***{Tape: 2; Side: B; Approx. Time Counter: 12.5 - 15.3}***

**Lynda Brannon, MASBO & IISM**, stated her organizations are opposed to this bill. **Ms. Brannon** indicated the savings realized last year resulted in lower local levies and lower state GTB. She believes the only change realized from this bill is who receives the benefit of savings: the local district versus the state. Here, **SB 6** would allow the state to be the sole beneficiary. **Ms. Brannon** also said this bill flaunts the problem with governmental accounting and intensifies the "use it or lose it" mentality. She would like the Committee to consider what it is we are trying to encourage.

**Questions from Committee Members and Responses:**

***{Tape: 2; Side: B; Approx. Time Counter: 15.5 - 31.8}***

***{Tape: 3; Side: A; Approx. Time Counter: 0.3 - 18.7}***

**SEN. ZOOK** expressed his concern over the inconsistency between the previous bill and this one on the issue of local control.

**SEN. ZOOK** inquired why **SEN. RYAN** would propose a bill which commands a district to spend money. **SEN. RYAN** replied local districts had complete control prior to **HB 667**. With the passage of **HB 667** the legislature determined a school must have a certain amount of money to educate each child. Now that they are given a set amount of money they should be investing in whatever is necessary to educate their students. However, some districts are not spending those dollars to educate children. Rather, they are deciding not to purchase books, update materials, and so forth, and are placing money into an account for cash reappropriation to keep taxes down. **SEN. RYAN** indicated people in various communities are sending the message that the intent of the law is not being met in their schools. **SEN. RYAN** believes schools should spend their base funds on students.

**SEN. ZOOK** asked if **SEN. RYAN** thought trustees were violating the constitution and the direction set by the Court. **SEN. RYAN** replied in the affirmative. **SEN. ZOOK** inquired whether any lawsuits have been filed arising from this issue. **SEN. RYAN** expressed his hope that the bill will prevent just such an occurrence. **SEN. ZOOK** stated it is his understanding the Court reached its decision based strictly on dollars being received,

not on the quality of education being received. He does not see how this behavior can result in a violation of the law. **SEN. RYAN** suggested it may be wise to seek an advisory opinion from the Attorney General with regard to the law as it stands and this issue. Regardless, he believes there are some chronic under-spenders who are creating private tax havens for the local citizens at the expense of other tax payers. **SEN. ZOOK** asked whether districts who spend more are also in violation. **SEN. RYAN** replied in the negative, stating each of those districts must go to local voters for additional funding. He believes it is unfair taxation to ask some Montana citizens to pay more to ensure a base amount for each child, while in some districts they do not spend the money but use it in a way so as to provide a tax break for the local citizens.

**SEN. ELLIOTT** inquired whether **Ms. Quinlan** is familiar with the mill levies being assessed in some of the poorer districts. **Ms. Quinlan** indicated she does not have the information available, but will provide it to **SEN. ELLIOTT** as soon as possible. **SEN. ELLIOTT** stated he cannot discern any pattern within a given district in spreadsheet provided by **SEN. RYAN**. **Ms. Quinlan** indicated the spreadsheet contains very limited information, but she believes it is possible, especially in small districts, to have discrepancies arise from the fact that enrollment in one year drives funding for the next year. She also indicated a further limitation is placed on the contents of the spreadsheet as it does not include information on revenues. **SEN. ELLIOTT** reiterated his request for additional information. **SEN. ELLIOTT** asked what advantage a school district might realize by under-spending; i.e., does it provide additional leverage in seeking more funds from the state. **Ms. Quinlan** replied if a district under-spends its' budget it serves as an advantage to increasing its' operating budget, but only until the reserve account reaches ten percent (10%). Once the account reaches 10% a second advantage is realized, lower mill levies. If money is available for reappropriation then local tax levies are reduced as well as local GTB.

**SEN. BUTCHER** inquired whether **SEN. RYAN** is equating lower quality of education to less dollars being spent; and, whether he has evidence of a lack of quality of education being provided in these districts. **SEN. RYAN** responded quality of education is a subjective determination that he is not certain can be readily determined. However, the constitution of Montana has been interpreted as requiring that a minimum level of spending must occur to meet equality of educational opportunity. **SEN. BUTCHER** asked if eighty-percent (80%) is that minimum. **SEN. RYAN** replied in the affirmative. **SEN. BUTCHER** pointed to Popular County High

School which underspent by \$143,537, the largest amount on the spreadsheet. He noted they are spending 90 - 97% of their budget. **SEN. RYAN** explained the 90 - 97% is of the 80% base, not 100% of budget. **SEN. BUTCHER** noted some of the schools that are under-spending are schools with which he is very familiar. He asked **SEN. RYAN** if there are specific problems with these schools, noting he is opposed to forcing a school to buy something just to spend money. **SEN. RYAN** replied he is not in favor of forcing schools to spend money unnecessarily, however, it is his understanding the law requires a minimum level of spending by the local district. **SEN. BUTCHER** inquired whether we might be better advised to look at the law as it stands in that it requires a specific amount of money be spent to educate a child.

**SEN. MANGAN** asked if he is correct in concluding that money not spent can be used to lower local taxes. **SEN. RYAN** explained money not spent can be placed into reserves, up to ten percent (10%). Once that level has been reached the money can be used to reappropriate, resulting in lower local taxes. The state is, in essence, funding a decrease in local taxes. **SEN. MANGAN** briefly discussed the problem of cash flow and failed mill levies; referring specifically, to problems faced last year by East Helena and noting they are not on the list. **SEN. RYAN** indicated East Helena does not budget at the minimum level. This legislation does not affect districts budgeting at a higher level only those budgeting at the minimum level.

**SEN. STORY** noted most districts are missing the minimum by one or two percent; something easily explained by a couple of late bills. He asked **Ms. Quinlan** if this spreadsheet is truly indicative. **Ms. Quinlan** replied, based on a state-wide average, most districts under-spend their budgets by two or three percent. **SEN. STORY** also noted a lot of the schools are reservation schools, he inquired whether their percent of GTB is fairly large already. **Ms. Quinlan** responded many of those particular schools also receive Impact Aid, resulting in two general funds to work from.

**SEN. BUTCHER** noted there seems to be a large number of reservations schools not spending their budget, asking if there is any information as to why. **Ms. Quinlan** deferred the question to **Ms. Brannon**. **Ms. Brannon** indicated one of the biggest problems with Impact Aid is there is no idea when it will arrive. For example, a majority of the Impact Aid money for 1995 has been received, however, only fifty percent (50%) of the 1996 money. **SEN. BUTCHER** inquired, given the information provided by **Ms. Brannon**, why schools would leave large amounts of money unspent.

**Ms. Brannon** replied the districts have a very low taxable value due to the amount of federal land. There would be a desire to reappropriate in order to assist the few taxpayers there are.

**SEN. ZOOK** asked **Mr. Melton** how he felt about school districts which belong to his organization that fall under this legislation. **Mr. Melton** responded his understanding is the bill would prohibit any school operating at the base from saving money for reserves; thus, he is in opposition.

**SEN. ELLIOTT** requested **SEN. RYAN** explain the significance of the three year column in the spreadsheet. **SEN. RYAN** indicated he originally requested **Ms. Quinlan** provide information which demonstrated under-spending across a three year span. **SEN. ELLIOTT** noted some of the under-spending seems minimal, however, he does agree schools should spend the money provided them to educate their children.

**SEN. JOHNSON** sought clarification regarding the schools contained on the list, noting their position arises from the fact they are operating at the eighty-percent (80%) level. He inquired whether they would have shown up had they increased funding to eighty-two percent (82%). **SEN. RYAN** replied they would not.

**Closing by Sponsor:**

***{Tape: 3; Side: A; Approx. Time Counter: 18.8 - 21.2}***

**SEN. RYAN** addressed **SEN. JOHNSON's** concern regarding a minimal increase allowing districts to hide their behavior, noting it would not be a desirable result. He also addressed concerns about a district's ability to have reserves, indicating the result is certainly not his intent and he believes an amendment will cure that problem. **SEN. RYAN** also spoke to **SEN. BUTCHER's** concern regarding funds guaranteed by the state. He appreciates the discussion amongst the various interested parties, and believes it will contribute to a continuing and important dialogue.

**EXECUTIVE ACTION ON SB 76**

**Motion/Vote:** **SEN. COONEY** moved that SB 76 DO PASS. Motion carried.

**Motion:** **SEN. JOHNSON** motioned that SB 76 be reconsidered.



**Discussion:**

**SEN. JOHNSON** expressed concerns over the proposed legislation's being enacted in response to a federal law not yet in effect.

**SEN. MANGAN** explained the proposed language is preferable to that found in the statutes regardless of anticipated changes to the federal law.

**SEN. STORY** explained it is imperative the legislature not place contingency language in any bill. It creates numerous problems for all the parties involved.

**SEN. JOHNSON** stated he would withdraw his motion if he is allowed to change his vote to NO.

**Motion:** **SEN. ELLIOTT** moved that **PREVIOUS ACTION ON SB 76 BE RECONSIDERED.**

**Vote:** **Motion carried unanimously.**

**Motion:** **SEN. ELLIOTT** moved that **SB 76 DO PASS.**

**Discussion:**

**SEN. BUTCHER** expressed concerns with passing legislation which in essence wipes out an entire section of statute in anticipation of what the federal government may or may not do. He also believes to do so sets a dangerous precedent.

**SEN. STORY** stated he will support the bill for several reasons:  
1) referring to page three of the proposal, current law requires compliance with IDEA regardless of any changes and these changes have no influence on that minimum requirement;

2) testimony suggested federal coverage will be more narrow in scope than in the past, if present statutory language remains, state coverage will be broader in scope than the federal program and this is not a desirable result at this time; and,

3) when inquiry was made as to why definitions were in the statutes which have no connection to any other statutory language, the response provided was the person did not know, therefore, no changes are being made to policy we are simply bringing statutory language into compliance with our established policies.

**Vote:** **Motion carried 8-2 with BUTCHER and JOHNSON voting no.**

**ADJOURNMENT**

Adjournment: 5:30 P.M.

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SEN. BILL GLASER, Chairman

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TARI ELAM, Secretary

BG/TE

**EXHIBIT** (eds10aad)